HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A [C] NO.607/2006

(Single Bench: Hon'ble Mr. Justice Dhirendra Mishra)

Appellant
Non-applicant — Nand lal Jaiswal, S/o Late Shri Bachaulal Jaiswal, aged about 50 years, R/o Near old Petrol Pump, Bakharupara, Narayanpur, Tahsil Narayanpur, Distt. Bastar (C.G.)

Vs

Respondents
1. Kumari Sushila, D/o Shri Etwari, Caste, Gond, aged about 19 years, R/o Village- Godhbengal, Tahsil Narayanpur, Distt Bastar (C.G.)
2. Birsingh, S/o Shri Lokuram, aged about 26 year, R/o Kumharpara, Narayanpur, Distt Bastar (C.G.)
3. The Oriental Insurance Company Ltd., Main Market, Jagdalpur, Distt. Bastar (C.G.)

Present:
Mr. Subhash Yadav, Advocate for the appellant.
None for respondent No.1 & 2.
Mr. Abhishek Sinha with Mr. Shashank Sankhaya, Advocate for respondent No.3.

ORAL JUDGMENT
(27.06.2007)

Heard on admission.

The owner of the offending vehicle tractor & trolley bearing registration number CG17-G-0396 & CG17-G-0397 has preferred this appeal against the award dated 15.9.2006 passed in Claim Case

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

No.195/05 by learned Motor Accident Claims Tribunal, Bastar at Jagdalpur whereby a sum of Rs.95,000/- has been awarded to the claimant and the insurer of vehicle has been exonerated from the liability and the liability has been fastened upon the appellant-owner.

The only ground urged by learned counsel for the appellant is that two claim cases were filed arising out of same accident before the claims tribunals and Claim Case No.65/04 was decided by the claims tribunal, award was passed in favour of the claimant and the liability was fastened upon the owner, insurer & driver of the vehicle jointly & severally. However, in the subsequent claim case by another claimant the learned tribunal has decided Issue No.3 against the owner and has exonerated the insurance company by recording a finding that the vehicle in question was being used by the driver and the owner of the said vehicle in the breach of insurance policy condition and therefore, the insurance company is not liable for satisfying the award.

Learned counsel for the appellant submits that the specific objection taken by the appellant in this regard has not been considered and the issue in question had attained finality between the parties.

I have heard learned counsel for the appellant.

The tribunal has negated the objection of appellant by recording a finding that in the earlier case the matter was decided on the basis of evidence available on record in that case, however, in the present case insurance policy has been filed and from perusal of which it is evident that only risk of driver of vehicle has been covered, the same has not been challenged by way of cross-examination by the owner. The vehicle was being used for other than agricultural purpose for which it was not insured.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Therefore, on the basis of evidence available on record the claims tribunal has exonerated the insurance company from the liability. Admittedly, two separate trials of claims cases were held by two different claims tribunal, the matters were decided on the basis of evidence available on record in both the cases and the reasoning given by the claims tribunal for rejecting the objection of the appellant herein appears to be reasonable and proper and the same do not call for any interference by this Court. Therefore,, the appeal of the appellant being devoid of any merit is liable to be dismissed and it is hereby dismissed at the admission stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	